

# *Key Ideas*

## ***Chapter 9: Establishing a Township Cumulative Fire Fighting Building & Fire Equipment Fund or a Township Vehicle and Building Fund***



*In this section, we will discuss the following:*

- *Guidelines for creating the fund rate.*
- *Public hearings.*
- *The passage of the resolution.*
- *The Notice of Submission.*
- *Certifying approval, disapproval, or modification of the proposal.*
- *Reducing a cumulative fund.*
- *The role of the taxpayers.*

**ESTABLISHING A TOWNSHIP CUMULATIVE FIRE FIGHTING BUILDING  
& FIRE EQUIPMENT FUND UNDER IC 36-8-14**

Townships are permitted to establish a Cumulative Fire Fighting Building and Equipment fund that is exempt from the maximum levy limits when established. This presents an opportunity to accumulate funds for the specific purpose of providing fire fighting buildings and equipment thereby avoiding debt and the corresponding interest expense. Establishing this fund is totally optional.

The legislative body of a unit or the board of fire trustees of a fire protection district may provide a cumulative building and equipment fund under IC 6-1.1-41. In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township fire protection district, the **county legislative body which appoints the trustees of the fire protection district must approve the establishment of the fund.**

Keep in mind that under IC 36-8-14 this fund may only be used for the following purposes:

- 1) the purchase, construction, renovation, or addition to buildings used by the fire department or a volunteer fire company serving the unit,
- 2) the purchase of fire fighting equipment for use of the fire department or a volunteer fire company serving the unit. This includes making the required payments under a lease rental with option to purchase agreement made to acquire the equipment.
- 3) the purchase, construction, renovation, or addition to a building, or the purchase of equipment, for use of a provider of emergency services under IC 16-1-39-15 to the unit establishing the fund.
- 4) the purchase of land.

***ESTABLISHING A CUMULATIVE TOWNSHIP VEHICLE AND BUILDING FUND (IC 36-9-17.5)***

Townships are permitted to establish a Cumulative Vehicle and Building fund that is *not* exempt from the maximum levy limits when established. Establishing this fund is totally optional.

The legislative body of the township may provide a cumulative township vehicle and building fund under IC 36-9-17.5. In addition to the requirements of IC 6-1.1-41, before a cumulative fund may be established by a township, the **legislative body must approve the establishment of the fund.**

Keep in mind that this fund may only be used for the following purposes:

- 1) Acquire township vehicles;
- 2) Purchase construct, equip and maintain buildings for public purposes;

- 3) Acquire land and any improvements on land under this section and level, grade and prepare the land for construction of public buildings;
- 4) Demolish any improvements on land under this section and level, grade and prepare the land for construction of public buildings;
- 5) Acquire land and rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building;
- 6) Improve or construct any public way or other means of ingress or egress to land acquired under for the construction of a public building.

## Procedures for creation of either cumulative fund

If the Township Board decides to levy a Cumulative Building and Equipment Fund it shall hold a public hearing on a proposal to establish the fund rate. The fund may not have a rate that exceeds \$.0333 cents per \$100 of assessed value. The legislative body may levy a tax on all taxable property within the taxing district.



*The fund may not have a rate that exceeds \$.0333 cents per \$100 of assessed value for fire and \$.0167 per \$100 of assessed value for vehicle and building.*

If the Township Board decides to levy a Cumulative Vehicle and Building fund, it shall hold a public hearing on a proposal to establish the fund rate. The fund may not have a tax rate that exceeds \$.0167 per \$100 of assessed value. The legislative body may levy a tax on all taxable property within the taxing district.

IC 6-1.1-41-13 reads, "After a political subdivision complies with this chapter, a property tax may be levied annually at the tax rate approved under this chapter without further action under this chapter. The tax levy must be advertised annually as other tax levies are advertised." **Steps 1 through 3 as follows must occur before August 2nd. (Postmarked or file marked no later than August 1st.)**

**Use of the cumulative fund for lease payments does not relieve a township from obtaining approval of the Department of Local Government Finance for entering into the lease agreement.**

### STEP ONE

The first step requires the trustee to provide notice to the affected taxpayers by publishing a notice of the proposal and public hearing two (2) times, at least one (1) week apart, with the first publication being at least ten (10) days before the public hearing and the second publication made at least three (3) days before the date of the hearing (IC 5-3-1-4).



*The first step requires the trustee to provide notice to the affected taxpayers by publishing a notice of the proposal and public hearing two (2) times...*

The first notice must appear at least 10 days before the public hearing. To count the number of days, begin counting days with the day after the notice first appears and include the day of the hearing. Use the same procedure to count days for the second appearance of the legal advertisement.

Any time a notice is required to be published by the township, it must be placed in two newspapers that are published in the township. If only one newspaper is published in the political subdivision, then the notice is to be published in that newspaper, and if another newspaper is published in the county and circulates within the political subdivision, then in that newspaper also. If no newspapers are published in the township, then one newspaper published in the county may be used. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

Ex: The public hearing will be held on June 25th. The first publication must be no later than June 15th and the second publication must be no later than June 22nd. This allows one week between publications, and for the last publication to be no later than three days prior to the date of the hearing.

## STEP TWO

The second step requires that the trustee and the township board conduct a public hearing on the proposed cumulative fund on the date, time, and at the location indicated in the legal notice. At this meeting, the taxpayers of the affected taxing districts may be heard. Upon completion of the public hearing, the Advisory Board must pass a resolution adopting the proposed fund as presented or at a lesser tax rate. The Department of Local Government Finance will not approve a tax rate above what was adopted by the Advisory Board.



*The second step requires that the trustee and the township board conduct a public hearing...*

## STEP THREE

The third step entails passage of a resolution that proposes the tax rate for the cumulative fund. The proposal is submitted by the Trustee to the Department of Local Government Finance for approval. The proposal should consist of: 1) the Certificate of Proceedings; 2) the resolution as adopted; and 3) the proofs of publication from all newspapers where the legal advertisement appeared. **The proposal must be filed with the Department of Local Government Finance before August 2<sup>nd</sup> of the immediate preceding year to levy the rate for the ensuing year. No exceptions will be granted.**



*The third step entails passage of a resolution that proposes the tax rate...*

#### STEP FOUR

Upon receipt by the Department, the proposal, as submitted, is reviewed by the Department of Local Government Finance. If there are flaws in the procedure, the proposal will be returned to the Trustee for correction (providing that the August 2nd deadline in Step 3 can still be met). If legal requirements have been met, a Notice of Submission will be forwarded by the Department to the Trustee.

#### STEP FIVE

The Notice of Submission signifies the starting period for an objection to the proposed cumulative fund. The Notice of Submission must be published one (1) time per IC 5-3-1-4. Proofs of publication of this notice should be forwarded to the Department of Local Government Finance at once. **Copies of the proof of publication from the Notice of Submission should be provided to the County Auditor.** (Copies provided to the Auditor will be used as a reference to either forward a "Certificate of No Objection" or certify that an objecting petition has been filed.) It is the trustee's responsibility to provide the Auditor with the proofs of publication.



*The Notice of Submission signifies the starting period for an objection to the proposed cumulative fund. The Notice of Submission must be published one (1) time in two publications...*

#### STEP SIX.

Upon publication of the Notice of Submission, ten (10) or more taxpayers who are affected by the proposed cumulative fund may file a petition with the Auditor of the County. This petition must be filed not more than thirty (30) days after the publication of the Notice of Submission. The petition must set forth the taxpayer's objections to the proposed rate. If no objecting petition is filed, go directly to Step 10.

Upon receipt of an objecting petition, the County Auditor shall immediately certify the objecting petition to the Department of Local Government Finance by verifying: 1) which petitioners are property owners in the taxing districts where the proposed cumulative fund will be levied; 2) that there are at least ten (10) qualified signatures; and 3) that the petition was filed within thirty (30) days of the Notice of Submission publication. Taxpayers objecting to a cumulative fund must file the objecting petition during the appropriate timeframe.

In the event that a proper and timely objecting petition is certified by the Auditor to the Department of Local Government Finance, the Commissioner shall within a reasonable amount of time, fix a date for a hearing. This hearing must be held in the county in which the township is located. Notice of the hearing shall be given to the

Trustee and the first ten (10) taxpayers named on the petition. Letters to the Trustee and Taxpayers must be mailed at least five (5) days before the date fixed for the hearing.

Interested taxpayers may be heard at a hearing conducted by a hearing officer of the Department of Local Government Finance. Testimony will be accepted from those against the proposed cumulative fund as well as those in favor. A report that includes recommended action on the hearing will be submitted to the Department by the hearing officer(s).

In the event that no objection was filed on the proposed cumulative fund, the County Auditor shall forward to the Department of Local Government Finance a Certificate of No Objection after the period stated in the Notice of Submission has expired. *It is the township's responsibility to secure this certificate from the County Auditor. The trustee must provide the proof of publication in order for the Auditor to knowledgeably verify that no objecting petition was filed.*



*Upon publication of the Notice of Submission, ten (10) or more taxpayers who are affected by the proposed cumulative fund may file a petition with the Auditor of the County.*

STEP SEVEN.

The Department shall certify their approval, disapproval, or modification of the proposal to the Trustee and the County Auditor. The Department of Local Government Finance has three months to make a final determination. Action by the Department is final.



*The Department shall certify their approval, disapproval, or modification of the proposal to the Trustee and the County Auditor.*

The approved Cumulative Fund levy may be levied with the first annual tax levy after approval or year stated in the Notice to Taxpayers of Public Hearing and/or ordinance. The cumulative rate does not expire and may be levied from year to year as long as the levy is advertised annually along with the annual budget. The tax may not exceed the tax rate specified in the statute authorizing the fund.

**If a cumulative fund rate is reduced by the appropriate adopting body for a given calendar year, the fund must be re-established as directed by IC 6-1.1-41-2 to increase the rate in a subsequent year.**

All cumulative fund information (proofs of publication, auditor's certificate of no objection, and other missing information) must be supplied to the Department of Local Government Finance prior to December 31 for consideration. Any material not submitted in a timely manner will result in denial of the cumulative fund.

The Department of Local Government Finance will apply the rate cap calculation to cumulative funds listed under IC 6-1.1-18.5-9.8. The maximum property tax rate levied may be adjusted each time a reassessment of property takes effect. When a cumulative fund is established, the Department of Local Government Finance cumulative fund order will reflect the rate adopted by the taxing unit. The Budget Order will reflect the adjustment to the cumulative fund rate made in response to IC 6-1.1-18.5-9.8.

In the years following the year of adoption, ten (10) or more taxpayers of the taxing districts where the rate is levied may file with the County Auditor a petition for reduction or revision of the cumulative fund levy. This type of petition must be filed no later than August 1. The same hearing procedure used during an objection to a proposed cumulative fund would apply. This is why it is important that any indebtedness using cumulative funds for repayment must be approved by the Department of Local Government Finance to insure that obligations can be met.



*...ten (10) or more taxpayers of the taxing districts where the rate is levied may file with the County Auditor a petition for reduction or revision of the cumulative fund levy.*

Taxes collected shall be deposited into the appropriate cumulative fund, which may only be used for the purposes outlined in this chapter. Monies in the fund must be appropriated before expended. Appropriations may be included in the Township's annual budget or handled by an additional appropriation.

If the political subdivision establishing the fund:

- (1) Decides that the purposes for which the fund was established have been accomplished or no longer exist; or
- (2) Rescinds the tax levy for the fund;

the governing body establishing the fund may transfer the balance into the general fund of the political subdivision.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED  
CUMULATIVE \_\_\_\_\_ FUND**

Notice is given to the taxpayers of \_\_\_\_\_ Township, \_\_\_\_\_ County  
(name) (name)  
that the Township Board will consider at their regular meeting place at \_\_\_\_\_  
(address)  
\_\_\_\_\_, at \_\_\_\_\_ o'clock P.M./A.M., on the  
(time)  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ the establishment of a Cumulative \_\_\_\_\_  
(day) (month) (year) (fund name)  
Fund under the provisions of IC \_\_\_\_\_ for the purposes stated therein.

(State purposes for which the fund will be used)

The proposed fund will be levied outside the maximum levy limitations and will not exceed \$ \_\_\_\_\_ cents per \$100 of assessed valuation. The proposed fund will be levied beginning with taxes 20\_\_ payable 20\_\_\_. Taxpayers appearing at such hearing shall (year) (year) have a right to be heard thereon. The proposal for establishment of the Cumulative \_\_\_\_\_ fund is subject to approval by the Department of Local Government Finance, who will require Notice of Submission to be given to the taxpayers through publication. **After the publication of the Notice of Submission**, ten (10) or more taxpayers in the affected taxing districts may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objection to the proposed levy.

Township \_\_\_\_\_ Trustee  
\_\_\_\_\_  
\_\_\_\_\_ County



**CERTIFICATE OF PROCEEDINGS**

(Complete the top portion of this form and submit to the Department of Local Government Finance with proofs-of-publication of Notice to Taxpayers and the adopted resolution).

COUNTY \_\_\_\_\_

TOWNSHIP \_\_\_\_\_

CUMULATIVE FUND \_\_\_\_\_

CODE CITATION: IC 36-8-14 (fire) or IC 36-9-17.5 (vehicle and building)  
(Please circle or underline one of the code cites)

YEAR TO BE LEVIED: 20\_\_ PAYABLE 20\_\_

FIRST NOTICE PUBLISHED ON: \_\_\_\_\_  
NEWSPAPER(S): \_\_\_\_\_

SECOND NOTICE PUBLISHED ON: \_\_\_\_\_  
NEWSPAPER(S): \_\_\_\_\_

PROPOSED RATE \_\_\_\_\_  
(Not to exceed \$.0333 cents for fire or \$.0167 cents for vehicle and building per \$100 A.V.)

Please forward copies of Notice of Submission to:

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

E-Mail (optional) \_\_\_\_\_

# *Summary*

## **Chapter 9: Establishing a Township Cumulative Fire Fighting Building & Fire Equipment Fund or a Township Vehicle and Building Fund**



*In this section, we have discussed the following:*

- *The cumulative fire fund is outside the maximum levy limits and the cumulative vehicle and building fund is inside the maximum levy limits.*
- *The first step requires the trustee to provide notice to the affected taxpayers by publishing a notice of the proposal and public hearing two (2) times...*
- *The second step requires that the trustee and the township board conduct a public hearing...*
- *The third step entails passage of a resolution*

# *Summary* (Continued)

## *Chapter 9*



*In this section, we have discussed the following:*

- *The Notice of Submission signifies the starting period for an objection to the proposed cumulative fund. The Notice of Submission must be published one (1) time in two publications...*
- *The Department shall certify their approval, disapproval, or modification of the proposal to the Trustee and the County Auditor.*
- *If a cumulative fund rate is reduced by the appropriate adopting body for a given calendar year, the fund must be re-established...*
- *...ten or more taxpayers of the taxing districts where the rate is levied may file with the County Auditor a petition for reduction or revision of the cumulative fund levy.*